

REMARKS

Claims 1-25 are pending.

Drawings stand objected to.

Claims 6 and 7 stand rejected under 35 USC §112, first paragraph, as failing to comply with the enablement requirement.

Claims 1-15, and 18-25 stand rejected under 35 USC §112, second paragraph, as being allegedly indefinite for failing to particularly point out and distinctly claim the subject matter that the Applicant regards as the invention.

Claims 1, 4, 5, 8, 10-14, 22, and 24 stand rejected under 35 USC §103(a) as being allegedly unpatentable over Zarif in view of Reitman.

Claims 2, 3, 15, 23, and 25 stand rejected under 35 USC §103(a) as being allegedly unpatentable over Zarif in view of Reitman, and further in view of Glasgow.

Claims 16-21 stand rejected under 35 USC §103(a) as being allegedly unpatentable over Zarif in view of Reitman, and further in view of Selles.

Objection to Drawings:

The Applicants submit formal drawings Figures 1-7. Of the figures, Figure 2 has been amended in response to the Examiner's request for the purpose of overcoming the Examiner's objection.

No new matter has been added. Approval of the corrections is respectfully requested.

Changes in the Claims:

Claim 8 has been canceled.

Claims 1, 6, 9, 18, 19, 20, 21, and 24 have been amended in this application to further particularly point out and distinctly claim subject matter regarded as the invention. No new matter has been added.

Rejection under 35 USC §112, first paragraph – claims 6 and 7

Claims 6 and 7 stand rejected under 35 USC §112, first paragraph, as failing to comply with the enablement requirement.

Claim 6 has been amended to further claim how the psychological tests are being used. Amendments to Claim 6 are supported by the present specification at paragraph 54.

Rejection under 35 USC §112, second paragraph – claims 1-15, and 18-25

Claims 1-15, and 18-25 stand rejected under 35 USC §112, second paragraph, as being allegedly indefinite for failing to particularly point out and distinctly claim the subject matter that the Applicant regards as the invention. This rejection is respectfully traversed.

MPEP §2171 identifies two separate requirements: (1) the claims must set forth the subject matter that applicants regard as their invention; and (2) the claims must particularly point out and distinctly define the meets and bounds of the subject matter that will be protected by the patent grant. A lack of antecedent basis may be found if a claim is “indefinite” because “it contains words or phrases whose meaning is unclear”; see MPEP §2173.05(e).

The Office Action alleges that the term “more compatible” in claims 1, 18, 20, 22, and 24 and the term “less compatible” in claims 9, 19, and 21 is indefinite. Claims 1, 18, 20, 22, and 24 have been amended to replace “more compatible” with “most compatible”. Claims 9, 19, and 21 have been amended to replace “less compatible” with “least compatible”.

The claims now meet the statutory requirements.

Rejection under 35 USC §103(a) – claims 1, 4, 5, 8, 10-14, 22, and 24

Claims 1, 4, 5, 8, 10-14, 22, and 24 stand rejected under 35 USC §103(a) as being allegedly unpatentable over Zarif in view of Reitman. This rejection is respectfully traversed.

Under MPEP §706.02(j), in order to establish a prima facie case of obviousness required for a §103 rejection, three basic criteria must be met: (1) there must be some suggestion or motivation either in the references or knowledge generally available to

modify the reference or combine reference teachings (MPEP §2143.01), (2) a reasonable expectation of success (MPEP §2143.02), and (3) the prior art must teach or suggest all the claim limitations (MPEP §2143.03). See In re Royka, 490 F. 2d 981, 180 USPQ 580 (CCPA 1974).

Zarif describes an anatomically-based fitness plan. The plan is established by comparing “the current anatomic status and goal anatomic status”. Paragraph 35. “The fitness objectives are compared to a fitness exercise table” that includes “a particular exercise focused on changing/improving that part of the body.” Paragraph 36. “The results of the two comparisons are then combined in way to create a fitness plan that is driven by the fitness objectives and delta-dimensions”. Paragraph 37.

Reitman teaches a network-based system where athletes are assisted by a coordinated database of relevant information from professionals. Reitman provides a coordinated system for channeling information between athletes and experts (e.g. doctors). The database in Reitman contains profile data (name, age, area of seeking improvement – nutrition, medicine, etc..., activities of choice, etc...) See Col. 3, Lines 48-67.

Applicants respectfully submit that the proposed combination of Zarif and Reitman does not possess all of the claims limitations of claims 1-25. Neither Zarif nor Reitman suggest “identifying at least one specific physical activity **most compatible** with the individual based” on the comparison. Neither Zarif nor Reitman suggest “comparing the results of said plurality of tests with a database, said database including the results of said plurality of tests subjected to a set of athletes from different physical activities”.

Zarif teaches a fitness plan seeking to **improve or change** a part of a body based on “the current anatomic status” and “goal anatomic status”. However, Zarif does **not** identify a physical activity **most compatible** with the individual. “Compatible” is defined in the present specification in paragraph 15 as when the “analysis determines which physical activity the person 102 has more aptitude for based on the results of his/her tests...”. In contrast, Zarif describes a fitness plan seeking to **improve** based on selected goals. Zarif does not provide for talent identification.

Reitman teaches a network-based system where athletes are assisted by a coordinated database of relevant information from professionals. FIG. 3a in Reitman

illustrates different activities (hockey, football, etc...). “The information database supporting that activity includes exercise psychology 33, medicine 34, nutrition 35, injury rehabilitation 36 and strength and conditioning 37.” See Col. 4, lines 24-27. The database in Reitman does **not** store any physical test results performed on them. The database 13 in Reitman does **not** store “the results of said plurality of tests subjected to a set of athletes from different physical activities” but stores the profile of an athlete. The database in Reitman thus does **not identify** any physical activities based on any tests. Furthermore, Reitman does **not** teach or suggest “identifying at least one specific physical activity **most compatible** with the person based on said comparing.”

Applicants therefore submit that the rejection based the Zarif and Reitman reference is improper and should be withdrawn. Thus, Applicants submit that claims 1-25 recite novel subject matter which distinguishes over any possible combination of Zarif and Reitman.

Rejection under 35 USC §103(a) – claims 2, 3, 15, 23, and 25

Claims 2, 3, 15, 23, and 25 stand rejected under 35 USC §103(a) as being allegedly unpatentable over Zarif in view of Reitman, and further in view of Glasgow.

These rejections are respectfully traversed for at least the reason that each of the rejected claims ultimately depend on an above-discussed base claim. The arguments set forth above regarding the base claims are equally applicable here. The base claims being allowable, the dependent claims must also be allowable.

Rejection under 35 USC §103(a) – claims 16-21

Claims 16-21 stand rejected under 35 USC §103(a) as being allegedly unpatentable over Zarif in view of Reitman, and further in view of Selles.

These rejections are respectfully traversed for at least the reason that each of the rejected claims ultimately depend on an above-discussed base claim. The arguments set forth above regarding the base claims are equally applicable here. The base claims being allowable, the dependent claims must also be allowable.

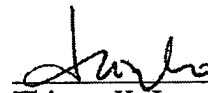
Conclusion

For all of the above reasons, applicants submit that the amended claims are now in proper form, and that the amended claims all define patentable subject matter over the prior art. Therefore, Applicants submit that this application is now in condition for allowance.

Request for allowance

It is believed that this Amendment places the above-identified patent application into condition for allowance. Early favorable consideration of this Amendment is earnestly solicited. If, in the opinion of the Examiner, an interview would expedite the prosecution of this application, the Examiner is invited to call the undersigned attorney at the number indicated below.

Respectfully submitted,
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Dated: September 23, 2005

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Attachments

Amendments to the Drawings:

Formal drawings Figures 1-7 are indicated as Replacement Sheets and are submitted herewith for approval. Of the Formal drawings, Figure 2 has been amended to include a legend of the rectangles. Therefore, Figure 2 is submitted with corrections in red ink on the annotated sheet showing changes

Attachment: Replacement Sheets
Annotated Sheet Showing Changes

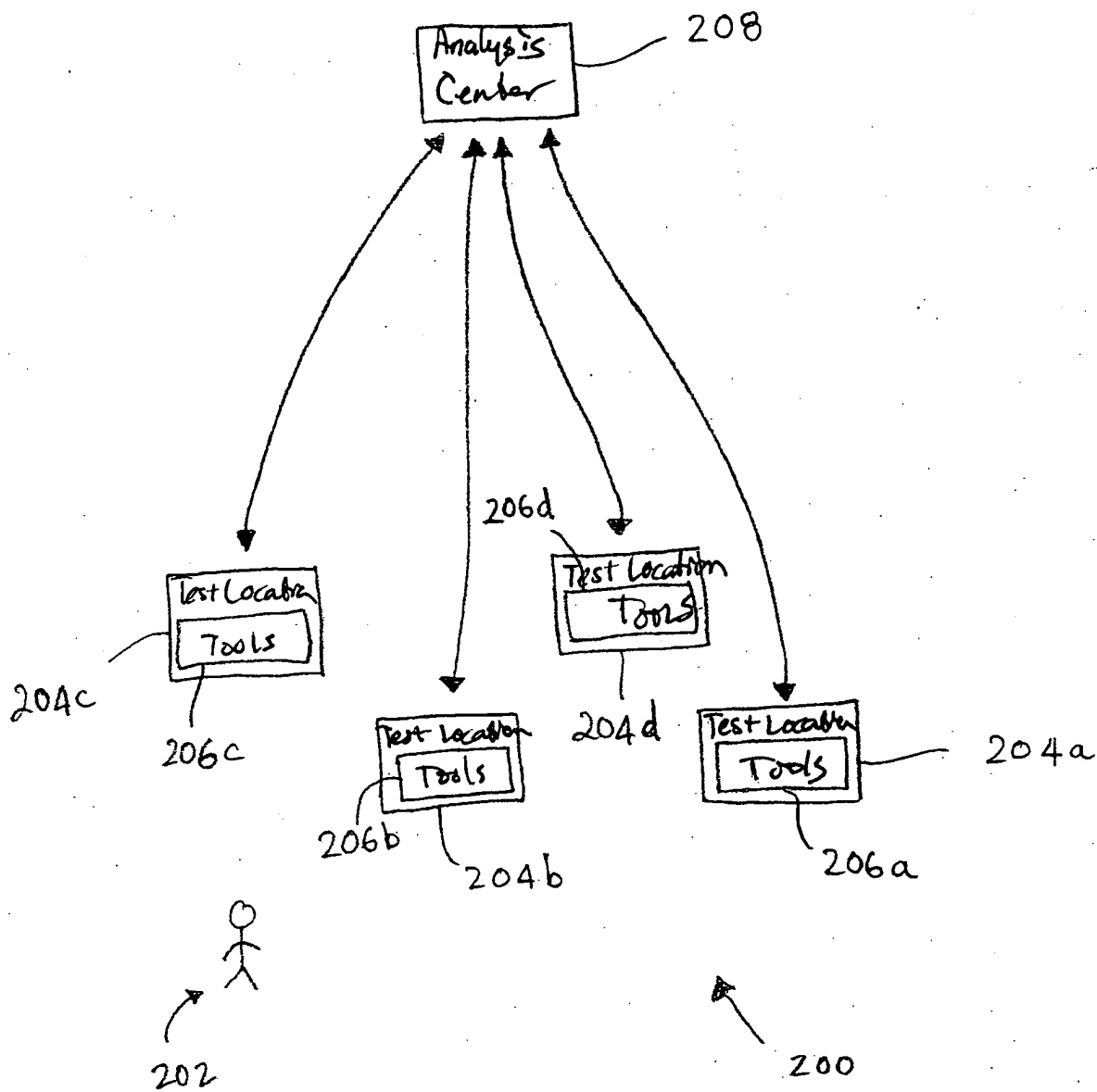


FIG. 2